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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

MYER J. SANKARY, as Successor
Trustee, etc.,

Plaintiffs and Respondents,

v.

NINA RINGGOLD,

Defendant and Appellant.

B210169

(Los Angeles County
Super. Ct. No. PP005201)

APPEAL from a judgment of the Superior Court of Los Angeles County, Aviva K. Bobb, Judge. Prefiling order issued; dismissed.

Nina Ringgold, in pro. per., for Defendant and Appellant.

Law Offices of Andrea Lynn Rice and Andrea Lynn Rice for Plaintiff and Respondent Myer J. Sankary.

Oldman, Cooley, Sallus, Gold, Birnberg & Coleman, Mary-Felicia Apanius
Plaintiff and Respondent Andre-Paul Summers Chaussier.

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Nina Ringgold purports to appeal from probate court orders. We issued an order to show cause directed at two issues. First, we requested the parties brief the issue of whether Ms. Ringgold should be declared a vexatious litigant and be subject to a prefiling order. Second, we requested that the parties discuss whether her appeal should be dismissed. We permitted oral argument on both of these issues. We conclude Ms. Ringgold is a vexatious litigant pursuant to Code of Civil Procedure section 391, subsection (b)(3) who should be subject to a prefiling order and her appeal should be dismissed.

First, because Ms. Ringgold continues to frivolously litigate her right to appeal on her own behalf notwithstanding her refusal to abide by a court order, is a vexatious litigant who should be subject to a prefiling order. Vexatious litigant and prefiling order issues may be raised on appeal via an order to show cause. (*Say & Say, Inc. v. Ebershoff* (1993) 20 Cal.App.4th 1759, 1761-1762; *Banks v. State of California* (1993) 14 Cal.App.4th 1147, 1148-1149; *Andrisani v. Hoodack* (1992) 9 Cal.App.4th 279, 280-281.) Code of Civil Procedure section 391, subdivision (b) applies to appeals. (*McColm v. Westwood Park Assn.* (1998) 62 Cal.App.4th 1211, 1216 [“Manifestly, ‘any civil action or proceeding’ includes any appeal or writ proceeding”]; *Say & Say, Inc. v. Ebershoff, supra*, 20 Cal.App.4th at pp. 1769-1770.) The following appellate matters, instituted by Ms. Ringgold in pro se, have been determined adversely to her: *White v. Ringgold* (Oct. 30, 2008) [nonpub. order]; *Sankary v. Ringgold* (Aug. 26, 2008, B2020858, B203110, B203814) [nonpub. opn.]; *Sankary v. Ringgold* (Aug. 26, 2008, B204931) [nonpub. opn.]; *Ringgold v. Sankary* (Aug. 26, 2008, B201148) [nonpub. opn.]; *Lockhart v. Ringgold* (Mar. 20, 2008, A117178) [nonpub. order]; *Ringgold v. Superior Court* (Nov. 29, 2007, B203843) [nonpub. order]; *Ringgold v. Superior Court* (Nov. 29, 2007, B203668) [nonpub. order]; *In re Marriage of Lockhart* (Apr. 24, 2007, A112978) [nonpub. opn.]; *Ringgold v. Lockhart* (April 24, 2007, A112978) [nonpub. opn.]; *In re Marriage of Lockhart* (Mar. 20, 2007, A112384, A112635) [nonpub. opn.]; *Estate of Aubrey* (Mar. 8, 2007, B188156) [nonpub. opn.]; *Saunders v. Sankary* (Jan. 29, 2007, B188155) [nonpub. opn.]; and *Lockhart v. Ringgold* (Sept. 28, 2006, A114994)

[nonpub. order], *White v. Ringgold* (Sept. 7, 2006, B192914) [nonpub. order]. On March 20, 2007, in an unpublished opinion, our colleague, Presiding Justice Ignazio J. Ruvolo noted: “We are very familiar with this bitterly fought and protracted litigation from Ringgold’s various appeals and writ petitions. In the proceedings conducted below, Lockhart submitted a list of 18 appeals and writs pursued by Ringgold in the First Appellate District. Ringgold has been sanctioned at least three times for her conduct in this litigation.” (*In re Marriage of Lockhart, supra.*) One month later, on April 24, 2007, Presiding Justice Ruvolo, in another appeal warned: “Ringgold is admonished that further attempts to appeal from nonappealable orders may result in the imposition of sanctions. (Cal. Rules of Court, rule 8.276(e); *Schneider v. Friedman, Collard, Poswell & Virga* (1991) 232 Cal.App.3d 1276, 1284.)” (*In re Marriage of Lockhart, supra.*)

It is in this context we examine Ms. Ringgold’s consistent attempts to appeal despite her lack of standing to do so because she remains in violation a December 16, 2005 probate court order. On December 16, 2005, the probate court ordered Ms. Ringgold, the former trustee, within 48 hours, “[T]o cooperate and forthwith turn[]over to [successor trustee] Myer Sankary all documents and keys necessary to transfer possession of the personal property of the decedents Robert Aubry and Mary Aubry Estate now located in the Public Storage facility.’ The probate court further ordered, ‘Myer Sankary is authorized to release the personal property to such beneficiaries of Robert and Mary Aubry as are entitled to said property and in accordance with their agreement.’ Ms. Ringgold has not complied with the December 16, 2005 order; moreover, she refuses to do so. We have previously held that Ms. Ringgold is legally obligated to obey the December 16, 2005 order.” (*In re Ringgold* (2006) 142 Cal.App.4th 1001, 1015-1016.)

As noted, we have dismissed five prior appeals brought by Ms. Ringgold in case Nos. B201148, B202858, B203110, B203814, and B204931. We have dismissed these appeals because she has without any justification refused to obey a court order. An appellate court may dismiss an appeal by a party who has refused to obey a trial court’s legal orders. (*National Union v. Arnold* (1954) 348 U.S. 37, 44-45; *Moffat v. Moffat*

(1980) 27 Cal.3d 645, 652.) Our Supreme Court has held: “A party to an action cannot, with right or reason, ask the aid and assistance of a court in hearing his demands while he stands in an attitude of contempt to legal orders and processes of the courts of this state. [Citations.]” (*MacPherson v. MacPherson* (1939) 13 Cal.2d 271, 277; see *In re Kamelia S.* (2000) 82 Cal.App.4th 1224, 1228.) We may use our processes to induce compliance with a presumptively valid court order (*Say & Say v. Castellano* (1994) 22 Cal.App.4th 88, 94; *Stone v. Bach* (1978) 80 Cal.App.3d 442, 446.) We may exercise this inherent power when there has been willful disobedience or obstructive tactics without a contempt adjudication. (*In re Claudia S.* (2005) 131 Cal.App.4th 236, 244; *Guardianship of Melissa W.* (2002) 96 Cal.App.4th 1293, 1299.) Her reason for refusing to do so and attempts before us to justify her failure to do so are frivolous and as explained in the papers submitted by the other parties to this appeal are designed to cause unwarranted delay in resolving the ongoing probate proceedings. We thus find Ms. Ringgold is a vexatious litigant within the meaning of Code of Civil Procedure section 391, subdivision (b)(3) in that she has repeatedly filed meritless papers here and in the probate court which frivolously assert she need not obey an order which has caused unnecessary delay and expense. Although its future application to this case may be uncertain, we conclude Ms. Ringgold should be subject to a prefiling order. (Code Civ. Proc., § 391.7, subd. (a); *Andrisani v. Hoodack, supra*, 9 Cal.App.4th at p. 281.)

Additional evidence of the Ms. Ringgold’s frivolous contentions in connection with this case are her repeated assertions at oral argument that she is a trustee. Now doubt, on October 14, 2003, now retired Judge Richard G. Kolostian appointed Ms. Ringgold as a cotrustee of the Aubry family trust. But on March 10, 2005, Judge Kolostian terminated Ms. Ringgold’s appointment as a temporary trustee of the Aubry family trust. Ms. Ringgold’s repeated claims in writing and at oral argument she is a trustee have no factual or legal foundation.

Further, at oral argument, Ms. Ringgold asserted that Mr. Sankary was serving without bond. That contention has no factual basis. On October 17, 2007, the probate

court set Mr. Sankary's bond at \$1 million. Mr. Sankary has posted the court ordered \$1 million bond.

Concurrent with the issuance of the remittitur, the clerk of this court is to notify the Judicial Council that Ms. Ringgold is now subject to a prefiling order. Given our conclusions concerning the frivolous and obstructionist conduct of Ms. Ringgold, we need not decide whether she is also a vexatious litigant because she has instituted five "litigations" which have been resolved adversely to her in the last seven years within the meaning of Code of Civil Procedure section 391, subdivision (b)(1). So there is no question, we are finding Ms. Ringgold is a vexatious litigant pursuant to Code of Civil Procedure section 391, subsection (b)(3) premised upon the repeated filing of unmeritorious papers and the frivolous assertion she need not obey a court order which has caused unwarranted delay and expense.

Second, the present appeal must be dismissed because Ms. Ringgold has forfeited her right to do so because she remains in violation of the December 16, 2005 probate court order. The aforementioned authority we have relied upon in the aforementioned five appeals authorizes us to dismiss Ms. Ringgold's appeal because she is in violation of the December 16, 2005 probate court order. Such is the appropriate disposition in this case.

We find Nina Ringgold to be a vexatious litigant and will henceforth be subject to a prefilings order. The appeal is dismissed. Myer J. Sankary as the Successor Trustee of the Aubry Family Trust and Andre-Paul Chaussier as the Successor Trustee of the Summers Family Trust shall recover their costs incurred on appeal from Nina Ringgold.

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TURNER, P.J.

We concur.

ARMSTRONG, J.

FLIER, J.*

* Associate Justice of the Court of Appeal, Second Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.